

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Jerald Boitnott,)
vs.)
Plaintiff,)
TCF Banking & Savings, F.A. d/b/a TCF)
Bank and TCF National Bank,)
Defendants.)
)

**NOTICE OF REMOVAL
TO FEDERAL COURT**

TO: THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MINNESOTA; AND PLAINTIFF ABOVE-NAMED.

Defendants TCF Banking & Savings, F.A. d/b/a TCF Bank and TCF National Bank (collectively, “Defendants”) by and through their attorneys, Winthrop & Weinstine, P.A., remove this action from the Minnesota District Court, First Judicial District, Dakota County, to the United States District Court for the District of Minnesota pursuant to 28 U.S.C. § 1331.

In support of their Notice for Removal, Defendants state as follows:

Removal Procedure

1. Plaintiff Jerald Boitnott (“Plaintiff”) personally served a Summons and Complaint captioned *Jerald Boitnott vs. TCF Banking & Savings, F.A. d/b/a TCF Bank and TCF National Bank*, State of Minnesota, Second Judicial District, County of Dakota (the “Complaint”) upon Defendants on October 1, 2018. A true and correct copy of the Summons and Compliant is attached hereto as **Exhibit A** as required by

28 U.S.C. § 1446(a). As of the date of this filing, the Complaint has not been filed with the Dakota County District Court.

2. Defendants have not answered the Complaint, and no further proceedings have taken place in the State Court Action.

3. The Complaint seeks declaratory judgment, injunctive relief, and certain nominal monetary damages and attorneys' fees arising from Defendants' alleged violation of the Americans with Disabilities Act ("ADA").

4. 28 U.S.C. § 1331 states in relevant part:

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

5. The Complaint alleges violations of the ADA, which is a law of the United States. This Court therefore has Federal Question Jurisdiction over this matter.

6. This Notice of Removal is timely under 28 U.S.C. § 1446(b)(1) because it was filed within thirty days after the Defendants received service of Plaintiff's Summons and Complaint.

7. Venue is proper in this Court for removal purposes under 28 U.S.C. §1446(a), as this Court is "the district court of the United States for the district and division" where the State Court Action is pending.

8. Concurrent with the filing of this Notice of Removal, written Notice of Removal is being given to Plaintiff and a copy of a Notice of Filing Notice of Removal is being filed with the Minnesota District Court, First Judicial District, Dakota County as

required by 28 U.S.C. §1446(d). A true and correct copy of the Notice of Filing Notice of Removal is attached hereto as **Exhibit B**.

9. By this Notice of Removal, Defendants do not waive any objections they may have to this action. Defendants intend no admissions of fact, law or liability as to Plaintiff's allegations, whether set forth in the Complaint or otherwise, and expressly reserve all defenses, motions, and pleas.

10. WHEREFORE, Defendants hereby give notice that the case *Jerald Boitnott v. TCF Banking & Savings, F.A. d/b/a TCF Bank and TCF National Bank*, is removed from the First Judicial District, Dakota County, Minnesota to the United States District Court for the District of Minnesota, pursuant to 28 U.S.C. §§1331, 1441, and 1446, and that all further proceedings shall be held before this Court.

Dated: October 31, 2018

WINTHROP & WEINSTINE, P.A.

By: s/ Joseph M. Windler
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